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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/811,959	03/30/2004	Eiichi Nishio	11-242	2875
23400	7590	12/16/2004	EXAMINER	
POSZ & BETHARDS, PLC 11250 ROGER BACON DRIVE SUITE 10 RESTON, VA 20190			MARTIR, LILYBETT	
			ART UNIT	PAPER NUMBER
			2855	

DATE MAILED: 12/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/811,959

Applicant(s)

NISHIO ET AL.

Examiner

Lilybett Martir

Art Unit

2855

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/30/04</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1-2 and 4-6 are rejected under 35 U.S.C. 102(e) as being anticipated by Curtis et al. (Pat. 6,759,603).

- With respect to claim 1, Curtis et al. teaches an upper member 28 having a first and a second end, said upper member being secured at the first end thereof to a seat installed within a vehicle, said upper member experiencing movement upon application of a physical load to the first end which arises from a vehicle passenger on the seat as noted in Figures 2 and 3; a lower member 24 having a first and a second end, said lower member being secured at the first end thereof to a body of the vehicle as noted in Figure 1; a sensing member 44 having a length with a first end 50 and a second end 52 opposite the first end, said sensing member 44 being joined at the first end thereof to the second end of said

upper member and at the second end thereof to the second end of said lower member as noted in Figure 2 so as to permit said sensing member to undergo bending stress as a function of a degree of the physical load on said upper member in response to the movement of said upper member transmitted to the first end of said sensing member from the second end of said upper member, thereby sensing the vehicle passenger on the seat (Col. 4, lines 2-9); and a stopper mechanism 68 installed on one of said upper member and said lower member, said stopper mechanism working to stop said sensing member from bending out of a predetermined range in which said sensing member is allowed to undergo a maximum bending stress within a bending stress limit of said sensing member (Col. 4, lines 36-47).

- With respect to claim 2, Curtis et al. teaches said stopper mechanism 68 is disposed at a location which is determined as a function of a difference between an upper limit of a displacement of said sensing member when subjected to a maximum permissible bending stress below the bending stress limit and a lower limit of a displacement of said sensing member when subjected to a minimum load within a desired load measurement range of said sensing member (note that the positioning of element 68 of Curtis is identical to the positioning of element 16 in Figure 4(a) of the Applicant's disclosure).

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- With respect to claim 4, Curtis et al. teaches said stopper mechanism 68 is made up of a stopper hole 76 and a stopper pin 72, the stopper hole being formed in one of said upper member and said lower member, the stopper pin 72 being installed at one end thereof on the other of said upper member 28 and said lower member 24 and disposed at the other end thereof within the stopper hole to be movable within a clearance between an outer wall of the stopper pin and an inner wall of the stopper hole as noted in Figure 2.
- With respect to claim 5, Curtis et al. teaches said upper member 28 is disposed in parallel to said sensing member 44 as noted in Figure 2.
- With respect to claim 5, Curtis et al. teaches said sensing member 44 has a rectangular cross section as noted in Figure 5 (as seen from the top).
- With respect to claim 6, Curtis et al. teaches said sensing member has a strain gauge 48, which outputs a signal as a function of the bending stress acting on said sensing member 44 (Col. 4, lines 2-9).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Curtis et al.

- With respect to claim 3, Curtis et al. teaches said sensing member 44 has a portion serving as a spring 46 that essentially has a length. Curtis et al fails to specifically teach that said spring area which has a length L, and wherein the location of said stopper mechanism is at a distance of one of $2L/3$ or more and $L/3$ or less from an end of the spring on a side of the first end of the sensing member according to a location where the physical load is applied to said sensing member. Since it has been held that rearranging parts of an invention involves only routine skill in the art (In re Japikse, 86 USPQ70), it would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the teachings of the weight sensor of Curtis et al by rearranging the position of it's bendable spring-like portion to make said device smaller and to subject the bendable part more directly to the forces being monitored.

Citation of Prior Art

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art considered pertinent during examination of the examined application is:

Menhey et al (Pat. 6,039,344) Vehicle occupant weight sensor apparatus.

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Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lilybett Martir whose telephone number is (571)272-2182. The examiner can normally be reached on 9:00 AM to 5:30 PM.


7. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Lefkowitz can be reached on (571)272-2180. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

8. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LM

Lilybett Martir
Examiner
Art Unit 2855

LCM


EDWARD LEFKOWITZ
SUPERVISORY PATENT EXAMINER
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